

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

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**FILE:** B-213250**DATE:** October 17, 1983**MATTER OF:** Hein-Warner Corporation**DIGEST:**

Protest alleging that prior unsatisfactory performance renders a bidder ineligible for contract award involves a challenge to an affirmative responsibility determination which GAO will not review unless possible fraud on the part of the procuring agency is shown or the solicitation contains definitive responsibility criteria which allegedly were misapplied.

Hein-Warner Corporation protests the Department of the Army's award of a contract to Weaver Jack Corporation under solicitation No. DAAA09-83-B-4743. We dismiss the protest.

Hein-Warner contends that Weaver should have been found ineligible for contract award because it does not have a satisfactory record of contract performance. This allegation relates to Weaver's responsibility as a prospective contractor. See Jenkins Equipment Co., Inc., B-207512, June 2, 1982, 82-1 CPD 531.

GAO does not review protests against affirmative determinations of responsibility unless either possible fraud on the part of the contracting officials is shown or the solicitation contains definitive responsibility criteria which allegedly have been misapplied. Propper Manufacturing Company, Inc., B-206193, February 3, 1982, 82-1 CPD 86. Neither exception is applicable here.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel

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